

REMARKS

The Office Action of April 30, 2008 was received and carefully reviewed. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claims 1-6, 10, 11, 14-21, 23, 24, 27 and 28 were pending prior to the instant amendment. By this amendment, claims 10, 11, 23 and 24 are canceled without prejudice or disclaimer. Claims 2, 3, 5, 6, 14, 15, 17, 18, 20, 21, 27 and 28 are allowed. The Examiner is thanked for the indication of allowable subject matter. Consequently, 1-6, 14-21, 27 and 28 are currently pending in the instant application with claims 1-6, 14 and 15 being independent.

In the Office Action, claims 1, 4, 16 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Pub. 2002/0022364 to Hatta et al. (hereinafter Hatta) in view of U.S. Patent No. 6,782,928 to Kweon et al. (hereinafter Kweon), U.S. Patent No. 6,871,943 to Ogawa (hereinafter Ogawa) and U.S. Patent No. 5,549,780 to Koinuma et al. (hereinafter Koinuma) and claims 10, 11, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,465 to Takiguchi et al. (hereinafter Takiguchi) in view of Kweon and U.S. Patent No. 6,231,917 to Ito et al. (hereinafter Ito). These rejections are respectfully traversed at least for the reasons provided below.

It should be noted that in light of the cancellation of claims 10, 11, 23 and 24 the corresponding prior art rejection mentioned above is rendered moot.

With respect to independent claims 1 and 4, Applicants contend that Hatta in view of Kweon, Ogawa and Koinuma fails to render the claimed invention unpatentable. Each of the claims recite a specific combination of features that distinguishes the invention from the prior art in different ways. For example, independent claim 1 recites a combination that includes, among other things:

a selectively forming a pattern comprising a composition which is emitted by use of droplet emitting means over a substrate having a size of $1000 \times 1200 \text{ mm}^2$ or larger ... wherein the droplet emitting means comprises a droplet emitting head in which a plurality of droplet emitting holes are disposed in a line form, and wherein the atmospheric plasma processing means comprises plasma generating means under 5 Torr to 800 Torr.

Independent claim 4 recites yet another combination that includes, *inter alia*,

a selectively forming a pattern comprising a composition which is emitted by use of droplet emitting means over a substrate having a size of $1000 \times 1200 \text{ mm}^2$ or larger ... wherein the droplet emitting means comprises a droplet emitting head in which one or a plurality of droplet emitting holes are disposed, and wherein the plasma processing means for carrying out local plasma processing comprises plasma generating means under 5 Torr to 800 Torr.

At the very least, the applied references, whether taken alone or in combination, fail to disclose or suggest any of these exemplary features recited in independent claims 1 and 4.

The Examiner has failed to establish a *prima facie* case of obviousness for at least three reasons. First, the Examiner has not shown the existence of any reasonable probability of success in modifying Hatta, the base reference, based on the teachings of Kweon, Ogawa and Koinuma, the secondary references, in a manner that could somehow result in the claimed invention. *See* M.P.E.P. § 2143 (7th ed. 1998). Second, the Examiner has not identified any suggestion or motivation, either in the teachings of the applied references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the apparatus of Hatta in a manner that could somehow result in the claimed invention. *See id.* Finally, the Examiner has not explained how his obviousness rationale could be found in the prior art — rather than being a hindsight reconstruction of Applicants' own disclosure. *See id.*

Each of the Examiner's factual conclusions must be supported by "substantial evidence" in the documentary record, as required by the Federal Circuit. *See In re Lee*, 61

U.S.P.Q.2d 1430, 1435 (Fed. Cir. 2002). The Examiner has the burden of documenting all findings of fact necessary to support a conclusion of anticipation or obviousness “less the ‘haze of so-called expertise’ acquire insulation from accountability.” *Id.* To satisfy this burden, the Examiner must specifically identify where support is found within the prior art to meet the requirements of 35 U.S.C. §§ 102(b) and 103. In this case, however, the Examiner has failed to satisfy his burden of demonstrating how Hatta, taken alone or in combination with Kweon, Ogawa and Koinuma, can either anticipate or render obvious each and every one of the limitations present in independent claims 1 and 4, as required by the M.P.E.P. and Federal Circuit jurisprudence.

Thus, Applicants contend that the Examiner’s *prima facie* obviousness rejection is not proper. Independent claims 1 and 4 each recite the feature of plasma processing by use of atmospheric plasma processing means. This feature has advantages in that it requires no time for vacuuming and atmospheric air release and it is possible to reduce production costs. These advantages become more significant as substrate size increases. (See, for example, page 28, lines 8-19 of the original English specification of this application).

Further, Applicants contend it appears that the Examiner does not mention any reasonable probability of success in combining Kweon to achieve the claimed invention and there is no teaching or suggestion to combine in the applied references. Therefore, Applicants contend that there is no motivation to combine, particularly, Kweon with Koinuma and thus, a *prima facie* case of obviousness cannot be maintained.

In accordance with the M.P.E.P. § 2143.03, to establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In*

re Wilson, 424 F.2d 1382, 1385, 165 USPQ 196 (CCPA 1970). Therefore, it is respectfully submitted that neither Hatta, Kweon, Ogawa nor Koinuma, taken alone or in any proper combination, discloses or suggests the subject matter as recited in claims 1 and 4. Hence, withdrawal of the rejection is respectfully requested.

Claim 16 depends from independent claim 1 and is patentable over the cited prior art for at least the same reasons as set forth above with respect to claim 1.

Claim 19 depends from independent claim 4 and is patentable over the cited prior art for at least the same reasons as set forth above with respect to claim 4.

In addition, each of the dependent claims also recite combinations that are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is not rendered obvious in view of the prior art references cited against this application. Applicant therefore request the entry of this response, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

In discussing the specification, claims, and drawings in this response, it is to be understood that Applicant in no way intends to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned agent at (202) 585-8100.

Respectfully submitted,

NIXON PEABODY, LLP

/Sean A. Pryor, Reg. #48103/
Sean A. Pryor

NIXON PEABODY LLP
CUSTOMER NO.: 22204
401 9th Street, N.W., Suite 900
Washington, DC 20004
Tel: 202-585-8000
Fax: 202-585-8080